

Report to Council
Pueblo of Laguna Meeting with Anaconda Minerals Company
on February 18, 1983
Submitted by Ron J. Solimon

INTRODUCTION

The purpose of this meeting was to introduce Governor Martinez and new members of the Reclamation Committee to Mr. Jim Marvin and other Company representatives. Further, the Pueblo was seeking Anaconda's response to our position as provided in Governor Early's letter to Jim Marvin dated December 3, 1982.

The day previous to this meeting was committed to briefing Governor Martinez and other members of the delegation on matters concerning the reclamation and the possibility of uranium ore production at the Jackpile-Paguate Mine. The Pueblo was represented by Governor Martinez, Tribal Secretary-Del Begay, Councilman-Tim Analla, Councilman-Phil Gaco, Laguna Agency Superintendent-Roland Johnson, CERT Minerals Economist-Don Reynolds, CERT Environmental Engineer-John Blueyes, CERT Environmental Scientist-Ella Hulford, and Legal Assistant-Ron Solimon. Anaconda was represented by Mr. Jim Marvin-President of Anaconda Minerals Company (AMC), Ben Odum-Senior Vice-President of Operations, Charlie Smith-Vice-President of Small Mines, Bill Norem-General Manager of the New Mexico Operations, Colin Howard-Senior Counsel to Anaconda, and Jerry Bathke-ARCO Office of Indian Affairs.

RELEVANT ISSUES

To begin with we outlined several issues that we needed to discuss at some point during our meeting but not necessarily at the beginning. These issues were: Anaconda Minerals Company's commitment with regard to the construction of State Road-279; Anaconda's willingness/unwillingness to set-up operations as a Company in order to accomplish reclamation at the Jackpile/Paguate Mine; the possibility of Anaconda awarding a sole source reclamation construction contract to the Pueblo; and the possibility of segmented reclamation.



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STATUS OF ANACONDA'S WRITTEN RESPONSE

Mr. Charlie Smith indicated that the focus of this meeting would be the Company's response to Governor Early's letter. He indicated that a draft response had been developed but that it was not ready for publication at this time. He indicated that the Company would attempt to outline what their responses were on each item during the course of our discussion. Generally, the Company felt, according to Mr. Smith, that the reclamation plan was "well engineered and environmentally sound". He felt that the response which had been developed for submission to the Pueblo was a comprehensive response and should satisfy some of the requests by the Pueblo to the Company. We requested that the response be sent to Governor Martinez while he was in Washington as well as to CERT and the Laguna Agency so that we could begin to formulate our position immediately.

POSSIBILITY OF SOLE SOURCE RECLAMATION CONTRACT

Mr. Norem indicated that the Company might have set-up operations at the Jackpile/Paguate Mine in order to accomplish reclamation but because of the delays and the dissemination of equipment this became impossible. He indicated that it wouldn't be possible to have an approved plan by next month. He felt that the EIS process would take us well into next year before any type of reclamation work could be initiated. The Company concluded that they were almost entirely obligated to go with the contractor given the current status of the environmental impact statement process. Further, Mr. Marvin indicated that the time lag was going against us and that until the parties were able to get an approved plan we couldn't do anything. He suggested that the time frame for initiation of reclamation activities is in early 1984, at the earliest. Concerning the possibility of the construction company, Mr. Marvin addressed this matter by describing construction as a complex industry and queried whether or not the Federal Government would give us assistance if we did choose to establish a business. Mr. Johnson replied by referring to the five cent a gallon tax that

had been passed by Congress this last year and suggested that this could be seen as an effort on the part of the Federal Government and the Bureau of Indian Affairs to help the Pueblo as well as other Indian Tribes to get started in the construction industry. Once again, Mr. Marvin expressed his "very serious concern" over the time frame. He said the plan that was put together by the Company was in his opinion well-defined. He said that he knew what the cost of the plan is and that to expedite the whole process would benefit both the Pueblo and Anaconda in terms of costs and jobs. At this point Mr. Marvin posed the possibility of the Pueblo taking the place of Anaconda in executing the plan. He felt that because the Pueblo was in a closer relationship to the federal government it could get more things done. He wanted to leave this question open as a possibility for the Pueblo's consideration. Bill Norem indicated that earth-moving comprised about 95% of the total reclamation effort and that it would take about two years and monitoring would start almost immediately.

ECONOMIC DEVELOPMENT

At this point of discussion Mr. Marvin asked for a briefing on any economic development projects that were going on in the Grants area and especially those that might provide employment for former employees of the Company. Governor Martinez indicated that as far as he knew less than 100 people have found jobs outside of the reservation at this time. Mr. Marvin then asked Mr. Bathke why more hadn't been done to secure employment opportunities for the former employees of the Company and indicated to all of us that he was under the impression that more had been done in this area for the Pueblo. He directed Mr. Bathke to assist us on a continuing basis. At this point in the discussions we informed Mr. Marvin of the problems we had encountered in obtaining a Department of Defense contract. He reacted by asking what the Company could do in order to assist us in this regard. We asked him whether or not the Company would be willing to apply pressure at the Washington level.

Mr. Marvin stated that the Company would be more than happy to use its influences at the Washington level in order to assist the Pueblo in obtaining a Department of Defense contract. Further, we suggested that Mr. R.O. Anderson be contacted for possible assistance.

BONDING LEVEL AND LEASE REQUIREMENTS

Colin Howard expressed his concern that the parties include the government on both sides because of past conflicts on setting the bond level. Mr. Smith indicated to us that if we sought to modify the reclamation plan we would be changing the engineering and environmental integrity of the entire plan. At this point Mr. Howard introduced the subject of the 1952 and 1953 leases. He stated that there was no basis for reclamation in these leases between the Pueblo and Anaconda, but, nevertheless, Anaconda intended to undertake reclamation because of Anaconda's good faith commitment to the Pueblo which was based on an extension of the provision contained in Lease #8. Further, he argued that when we got down to the nitty gritty their argument on the lack of reclamation requirements were stronger than ours. He reminded us that Anaconda had submitted reclamation plans to us since 1977 and that the whole process had actually been going on since 1974. Finally, he indicated that the Company was extremely comfortable in offering the plan as it is. Mr. Marvin added that the development and submission of a plan was not merely accomplished to satisfy any regulations that might apply.

AMC's STRUCTURING OF FUTURE DISCUSSIONS WITH THE POL

Mr. Smith expressed the Company's desire that the entities come to total agreement on the reclamation issues as well as the non-reclamation items. Mr. Smith expressed his confidence in the New Mexico staff and their knowledge and ability to negotiate on items that were flexible as far as the Company was concerned. Mr. Smith indicated that he would be looking to the New Mexico staff to negotiate any of the non-reclamation items where the Company expresses its willingness to carry on further discus-

sions. Finally, he indicated that those alternatives with no positive cost-benefit ratio to the Company would be hard for the Company to address. Mr. Howard indicated that he didn't feel that Anaconda's technical committee hid the ball during any of the discussions and that it was merely a vehicle for understanding concerns of the Pueblo. He sought to remind our delegation that the technical committee was set-up in order to examine the technical aspects of the plan and also to provide explanation to the Pueblo representatives. He indicated that he never believed that the reclamation plan was a thesis for beginning negotiations. It should be noted that the Pueblo was operating on the premise that technical committee meetings were in fact negotiating sessions with the understanding that legal/policy issues were not on the agenda.

REHABILITATION OF DAMAGED HOMES

We then introduced the subject of continued rehabilitation of the homes in the Village of Paguete. We indicated to the Company that if we could resolve the village concerns then the argument of a reclamation plan as a whole might be achieved more readily. Mr. Smith indicated that the Company was willing to sit down and talk to the Pueblo about this, but they were not ready to negotiate on this issue today. He reiterated the results of the Company's last study which did not indicate blast damage responsibility on their part. Nevertheless, he felt that the rehabilitation issue could be taken-up during future discussions. However, he conditioned resolution of this issue to an overall agreement on the reclamation issues and non reclamation issues.

POSSIBILITY OF AMC RECLAIMING WITHOUT CONTRACTING

Mr. Smith returned to the question of continued Anaconda operations with regard to reclamation. He felt that because of timing, reclamation would have to be contracted. Although the Company felt that the idea of a Pueblo of Laguna construction company was meritorious, they would have to look

at the quality of performance and the lowest possible cost to the Company. Roland then indicated that there may be some existing legal mandate for preference in awarding such a contract to the Pueblo. Mr. Howard indicated in response to Roland's comment that the CRA exempts giving preference to Indians in this type of work. The Company advised that the costs associated with reclamation are a major consideration and that a contract would be awarded on a competitive-bid basis. Mr. Marvin reiterated the possibility of the Pueblo taking the place of Anaconda as a managing partner or entity which would get the Pueblo out of a competitive bidding process.

DISCUSSION ON OTHER RELEVANT ISSUES

At this point we attempted to clear up some issues that had been brought to the attention of the Pueblo during the previous week with regard to STATE ROAD 279. In our discussions with Mr. Larry Laranaga, the Chief State Highway Administrator, he indicated to us that it was the State's understanding that Anaconda was willing to grade and drain that portion of the re-route through the leased area. Mr. Norem indicated that all they intended to do was to backfill the "Rabbit Ears" area in order to expedite the re-route construction process. Anaconda also reminded us that during discussions with the State Highway Department we had all agreed to leave a section open for purposes of allowing the trucks to pass through the area without any kind of obstruction. Also, it was brought to our attention that the State District Engineer last year was present during last year's Council discussions on this matter. The Company expressed concern over the lack of commitment on the part of the State to assist in this construction project because of the previous commitment that the State had made to the Pueblo in the approximate amount of \$3 million dollars. We then asked Mr. Marvin for lobbying assistance at the State Legislature for construction funds for State Road 279. Mr. Marvin indicated that he would instruct his people to provide assistance in lobbying for said funds out of the severance tax fund of the

state. Concerning SEGMENTED RECLAMATION, the Company indicated that it was not specifically referenced in Governor Early's letter and that they would prefer to have an approved plan before they start any portion of the reclamation. He stated that this subject would not be addressed in the Company's response to the Pueblo. Finally, concerning the BOND LEVEL that had recently been set for Anaconda at \$45 million, the Company indicated to us that they were contemplating an appeal but a final decision to go forward with an appeal had not been made at this time. Mr. Howard attempted to chide us for having met with the BLM and BIA without their presence, but we retorted by saying that the most recent meeting had also been held without our presence. We called it a draw. Mr. Howard felt that the Bureau of Indian Affairs was applying 25 CFR part 177 to the Company without legal basis, i.e., the Company felt that a factor for additional cost is arbitrarily being added-on.

Respectfully Submitted

Ronald J. Solimon 3/2/83
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